

Message

From: Hicks, Matt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EAA50F546C9B440A98C82F4E9BD5BD69-HICKS, MATTHEW]
Sent: 9/21/2020 9:20:37 PM
To: Palmer, Leif [Palmer.Leif@epa.gov]
Subject: RE: Senior Staff Notes 9-17-20

Thanks Leif. It'll be interesting to hear the latest on tomorrow's FL assumption bi-weekly with OW.

From: Palmer, Leif <Palmer.Leif@epa.gov>
Sent: Monday, September 21, 2020 4:48 PM
To: R4 ORC Managers <R4_ORC_Managers@epa.gov>; R4ORC.SPECIALASSISTANT <R4ORC.SPECIALASSISTANT@epa.gov>; Bush, William <Bush.William@epa.gov>
Cc: Hicks, Matt <Hicks.Matthew@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>
Subject: FW: Senior Staff Notes 9-17-20

FYI –

For the 404 attorneys, see the write-up about the Idaho decision.

From: Simons, Andrew <Simons.Andrew@epa.gov>
Sent: Friday, September 18, 2020 3:58 PM
To: OGC HQ Only <OGC_HQ_Only@epa.gov>; OGC RCs and DRCs <OGC_RCs_and_DRCs@epa.gov>
Subject: Senior Staff Notes 9-17-20

David Fotouhi chaired the meeting. David will be the Acting General Counsel upon Matt's departure.

Both the Regions and OGC Offices appreciated Matt for visiting staff or manager meetings to say farewell.

Region 10 (Beverly Li) reported on a partially adverse 9th Cir (unpublished) decision regarding Idaho NPDES program approval.

Ex. 5 Attorney Client (AC)

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CCILO (Andrew Simons) reported that on September 14, 2020, the Administrator signed a final rule governing how EPA will issue and manage guidance documents. <https://www.epa.gov/sites/production/files/2020-09/documents/prepub-guidance-final-20200914.pdf>. The EPA Guidance Rule implements E.O. 13891 and will be effective 30 days after publication.

The Rule defines, with some exclusions, a guidance document as “an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.” For example, excluded from this definition are internal executive branch guidance, legal advice, or legal opinions not intended to have substantial future effect on the behavior of regulated parties.

The Rule establishes procedures for issuing guidance documents, such as requiring a statement in each guidance document that it lacks the force and effect of law and that guidance documents be posted on the [Guidance Portal](#) once finalized. Guidance documents issued by EPA Regional Offices must receive concurrence by the relevant Assistant Administrator at Headquarters. Significant guidance documents also must undergo both OMB review and a 30-day public comment period (except when there is good cause or when required by an emergency, statutory requirement, or court order). Further, significant guidance documents must be approved by a Presidentially-appointed EPA official (or an official in the acting capacity).

The Rule prescribes procedures for the public to petition the Agency for the modification, withdrawal, or reinstatement of a guidance document, which the Agency will respond to within 90 calendar days with the possibility of a one-time extension of up to 90 days. Basic formatting elements for petitions include petitioner contact information, identification of the guidance document being petitioned, what action sought (i.e., withdrawal, modification, or reinstatement), and a rationale.

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